

HOUSE BILL NO. 987

INTRODUCED BY CROMLEY
BY REQUEST OF THE DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

IN THE HOUSE

MARCH 13, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON BUSINESS & ECONOMIC DEVELOPMENT.

 FIRST READING.

MARCH 20, 1991 COMMITTEE RECOMMEND BILL
 DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 21, 1991 PRINTING REPORT.

MARCH 23, 1991 SECOND READING, DO PASS.

MARCH 25, 1991 ENGROSSING REPORT.

MARCH 26, 1991 THIRD READING, PASSED.
 AYES, 63; NOES, 34.

 TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 26, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON BUSINESS & INDUSTRY.

 FIRST READING.

APRIL 2, 1991 COMMITTEE RECOMMEND BILL BE
 CONCURRED IN AS AMENDED. REPORT
 ADOPTED.

APRIL 4, 1991 SECOND READING, CONCURRED IN.

APRIL 5, 1991 THIRD READING, CONCURRED IN.
 AYES, 47; NOES, 3.

 RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 10, 1991 RECEIVED FROM SENATE.

 SECOND READING, AMENDMENTS NOT
 CONCURRED IN.

APRIL 12, 1991

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 16, 1991

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 18, 1991

ON MOTION, CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 19, 1991

ON MOTION, CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 19, 1991

FREE CONFERENCE COMMITTEE REPORTED.

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

APRIL 20, 1991

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 20, 1991

FREE CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE HOUSE

APRIL 22, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 987
 2 INTRODUCED BY CROMLEY
 3 BY REQUEST OF THE DEPARTMENT OF
 4 HEALTH AND ENVIRONMENTAL SCIENCES
 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 7 LAWS RELATING TO REGULATION OF HOTELS, MOTELS,
 8 ROOMINGHOUSES, BOARDINGHOUSES, RETIREMENT HOMES, AND TOURIST
 9 HOMES; PROVIDING FOR LICENSING OF BED AND BREAKFASTS AS A
 10 SEPARATE CATEGORY OF PUBLIC ACCOMMODATIONS SUBJECT TO
 11 LICENSURE; INCREASING THE FEE FOR LICENSING OF HOTELS,
 12 MOTELS, ROOMINGHOUSES, RETIREMENT HOMES, AND TOURIST HOMES;
 13 REQUIRING PAYMENT OF THE FEE FOR LICENSING OF BED AND
 14 BREAKFASTS AND BOARDINGHOUSES; CREATING A SPECIAL REVENUE
 15 ACCOUNT FOR THE DEPOSIT OF LICENSE FEES; ALLOCATING MONEY IN
 16 THE ACCOUNT TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL
 17 SCIENCES; CLARIFYING WHO MAY CONDUCT INVESTIGATIONS AND
 18 INSPECTIONS; REQUIRING MINIMUM PERFORMANCE STANDARDS THAT
 19 MUST BE MET IN ORDER FOR THE LOCAL BOARD OF HEALTH TO
 20 RECEIVE PAYMENTS FROM THE LOCAL BOARD INSPECTION FUND
 21 ACCOUNT; REQUIRING PAYMENTS FROM THE ACCOUNT TO BE USED ONLY
 22 FOR THE PURPOSE OF INSPECTION AND ENFORCEMENT; PROHIBITING
 23 FUNDS FROM THE LOCAL BOARD INSPECTION FUND ACCOUNT FROM
 24 BEING USED TO SUPPLANT OTHER FUNDS RECEIVED BY THE LOCAL
 25 BOARD OF HEALTH; PROVIDING CIVIL PENALTIES FOR VIOLATION OF

1 THE LAWS REGULATING BED AND BREAKFASTS, HOTELS, MOTELS,
 2 ROOMINGHOUSES, BOARDINGHOUSES, RETIREMENT HOMES, AND TOURIST
 3 HOMES; AUTHORIZING INJUNCTIONS TO ENJOIN VIOLATIONS OF THE
 4 LAWS; ALLOWING THE DEPARTMENT AND COUNTIES TO RECOVER THE
 5 COSTS OF INVESTIGATIONS AND OTHER EXPENSES IN ENFORCING THE
 6 LAWS REGULATING BED AND BREAKFASTS, HOTELS, MOTELS,
 7 ROOMINGHOUSES, BOARDINGHOUSES, RETIREMENT HOMES, AND TOURIST
 8 HOMES; AND AMENDING SECTIONS 50-51-102, 50-51-201,
 9 50-51-204, 50-51-301, 50-51-302, AND 50-51-303, MCA."
 10

11 STATEMENT OF INTENT
 12 A statement of intent is required for this bill because
 13 it amends 50-51-301 and 50-51-303 to grant the department of
 14 health and environmental sciences authority to adopt rules.
 15 It is intended that the department adopt rules to:
 16 (1) require health officers and sanitarians to make
 17 reports to the department concerning investigations and
 18 inspections of establishments licensed under Title 50,
 19 chapter 51; and
 20 (2) establish minimum program performance standards
 21 that must be met in order for the local board of health to
 22 receive payments from the local board inspection fund
 23 account.
 24 It is intended that minimum performance standards
 25 include but not be limited to measures necessary to ensure



1 the accuracy of inspection reports and to allow statewide
2 standardization of inspections and documentation of work
3 performed.

4 Also, it is recognized that the exact nature of
5 necessary reporting requirements and performance standards
6 is still in the developmental stages. Therefore, it is
7 intended that these requirements be adopted only after close
8 coordination with local health departments and boards and
9 extensive solicitation of comments prior to adoption of
10 final requirements.

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 50-51-102, MCA, is amended to read:

14 **"50-51-102. Definitions.** Unless the context requires
15 otherwise, in this chapter the following definitions apply:

16 (1) "Bed and breakfast" means a bed and breakfast
17 homestay or a bed and breakfast inn.

18 (2) "Bed and breakfast homestay" means a private,
19 owner-occupied residence that is primarily used as a private
20 residence, but in which:

21 (a) one to five guest rooms, with a maximum of two beds
22 in each room, are made available to transient guests in
23 order to provide income for hosts; and

24 (b) breakfast is the only meal served and is included
25 in the charge for the room.

1 (3) "Bed and breakfast inn" means a commercial
2 establishment operated in a building that is used primarily
3 to provide overnight accommodations to the public, but in
4 which:

5 (a) the owner may live on the premises;

6 (b) there are more than five guest rooms; and

7 (c) breakfast is the only meal served and is included
8 in the charge for the room.

9 ~~(4)~~ (4) "Board" means the board of health and
10 environmental sciences.

11 (5) "Commercial establishment" means an establishment
12 operated primarily for profit.

13 ~~(6)~~ (6) "Department" means the department of health and
14 environmental sciences.

15 (7) "Establishment" means a bed and breakfast, hotel,
16 motel, roominghouse, boardinghouse, retirement home, or
17 tourist home.

18 ~~(8)~~ (8) "Hotel" or "motel" includes a building or
19 structure kept, used, maintained as, advertised as, or held
20 out to the public to be a hotel, motel, inn, motor court,
21 tourist court, public lodginghouse, or place where sleeping
22 accommodations are furnished for a fee to transient guests,
23 with or without meals.

24 ~~(9)~~ (9) "Person" includes an individual, partnership,
25 corporation, association, county, municipality, cooperative

1 group, or other entity engaged in the business of operating,
2 owning, or offering the services of a hotel, motel, bed and
3 breakfast, boardinghouse, tourist home, retirement home, or
4 roominghouse.

5 {5}(10) "Roominghouse", "boardinghouse", or "retirement
6 home" means buildings in which separate sleeping rooms are
7 rented providing sleeping accommodations for three or more
8 persons on a weekly, semimonthly, monthly, or permanent
9 basis, whether or not meals or central kitchens are provided
10 but without separated cooking facilities or kitchens within
11 each room, and whose occupants do not need professional
12 nursing or personal-care services provided by the facility.

13 {6}(11) "Tourist home" means an establishment or
14 premises where sleeping accommodations are furnished to
15 transient guests for hire or rent on a daily or weekly
16 rental basis in a private home when the accommodations are
17 offered for hire or rent for the use of the traveling
18 public.

19 {7}(12) "Transient guest" means a guest for only a brief
20 stay, such as the traveling public."

21 **Section 2.** Section 50-51-201, MCA, is amended to read:

22 "50-51-201. License required. (1) Each year, every
23 person engaged in the business of conducting or operating a
24 hotel, motel, tourist home, bed and breakfast,
25 boardinghouse, retirement home, or roominghouse shall

1 procure a license issued by the department.

2 (2) A separate license is required for each
3 establishment; however, where more than one of each type of
4 establishment is operated on the same premises and under the
5 same management, only one license is required which shall
6 enumerate on the certificate thereof the types of
7 establishments licensed.

8 (3) Before a license may be issued by the department it
9 must be validated by the local health officer, or if there
10 is no local health officer the sanitarian, in the county
11 where the establishment is located."

12 **Section 3.** Section 50-51-204, MCA, is amended to read:

13 "50-51-204. License fee -- late fee. (1) There shall be
14 paid to the department with each application for such
15 license or for renewal of such license an annual license fee
16 of ~~930~~ 550. The department shall deposit 85% of the fees
17 ~~collected in-the-state-special-revenue-fund-to-the-credit-of~~
18 under this section into the local board inspection fund
19 account created by in 50-2-108(2) and-the. The balance of
20 the fees must be deposited in the ~~general-fund~~ account
21 provided for in [section 4].

22 (2) In addition to the license fee required under
23 subsection (1), the department shall collect a late fee from
24 any licensee who has failed to submit a license renewal fee
25 prior to the expiration of his current license and who

1 operates an establishment governed by this part in the next
2 licensing year. The late fee is \$25 and must be deposited in
3 the ~~state-general-fund~~ account provided for in [section 4]."

4 NEW SECTION. Section 4. Special revenue account. There
5 is an account in the state special revenue fund. Money in
6 the account is allocated to the department to be used to
7 administer the provisions of this chapter and the rules
8 adopted under it.

9 **Section 5.** Section 50-51-301, MCA, is amended to read:

10 "50-51-301. Health officers to investigate--and make
11 investigations and inspections. (1) The department,--through
12 its--employees-and-through-local, county, and district State
13 and local health officers, [, sanitarians-in-training,] and
14 registered sanitarians, or other authorized representatives,
15 shall make all-necessary investigations and inspections for
16 enforcement-of--this--chapter of establishments and make
17 reports to the department as required under rules adopted by
18 the department.

19 ~~(2)--Each--local,--county,--or--district-health-officer,~~
20 ~~sanitarian, or other authorized--representative--shall--make~~
21 ~~regular--inspections--as--the--rules--of--the--department--may~~
22 ~~direct-and-such-special-inspections-as--the--department--may~~
23 ~~from--time--to--time--direct, and he shall make such reports~~
24 ~~relative-to-conditions-existing-wichin-his-district-at--such~~
25 ~~times-and-in-such-manner-as-the-department-may-direct."~~

1 **Section 6.** Section 50-51-302, MCA, is amended to read:

2 "50-51-302. Health officers to have free access. All
3 persons-authorized-by-this-chapter-or-by-regulations-adopted
4 under--this--chapter shall--have State and local health
5 officers(, sanitarians-in-training,) and registered
6 sanitarians must be provided free access to establishments
7 at all reasonable hours to-any-of-the-establishments-listed
8 and--defined--in--50-51-102 for the purpose of making
9 conducting investigations and inspections as required under
10 this chapter."

11 **Section 7.** Section 50-51-303, MCA, is amended to read:

12 "50-51-303. Department to pay local board for
13 inspections and enforcement. (1) Before June 30 of each
14 year, the department shall pay to a local board of health,
15 as established under 50-2-104, 50-2-106, or 50-2-107, an
16 amount from the local board inspection fund {account}
17 account created by in 50-2-108(2) which-is that must be used
18 only for the purpose of inspecting establishments licensed
19 under this chapter and enforcing the provisions of this
20 chapter; provided, however, that:

21 (a) there is a functioning local board of health; and
22 (b) the local board of health, local health officers,
23 [sanitarians-in-training,] and registered sanitarians;
24 (i) assist in the inspections and enforcement of the
25 provisions of this chapter and the rules adopted under it;

1 and

2 (ii) meet minimum program performance standards as
3 established under rules adopted by the department.

4 (2) The funds received by the local board of health
5 ~~shall pursuant to subsection (1) must~~ be deposited with the
6 appropriate local fiscal authority and ~~shall-be-in-addition~~
7 ~~to-the-funds-appropriated-under--50-2-108--through--50-2-114~~
8 ~~must be used to supplement, but not supplant, other funds~~
9 ~~received by the local board of health that in the absence of~~
10 ~~funding received under subsection (1) would be available for~~
11 ~~the same purpose.~~

12 (3) Funds in the local board inspection fund account
13 not paid to the local board of health as provided in
14 subsection (1) may be used by the department, within any
15 jurisdiction that does not qualify to receive payments from
16 the local board inspection fund account, to enforce the
17 provisions of this chapter and the rules adopted under it."

18 NEW SECTION. Section 8. Civil penalties -- injunctions
19 not barred. (1) An establishment that violates this chapter
20 or rules adopted by the department pursuant to this chapter
21 is subject to a civil penalty not to exceed \$500. Each day
22 of violation constitutes a separate violation.

23 (2) Civil action to impose penalties, as provided under
24 this section, does not bar injunctions to enforce compliance
25 with this chapter or to enforce compliance with a rule

1 adopted by the department pursuant to this chapter.

2 NEW SECTION. Section 9. Injunctions. The department or
3 a local board of health may petition the district court to
4 enjoin any action in violation of this chapter or of a rule
5 adopted by the department pursuant to this chapter.

6 NEW SECTION. Section 10. Costs and expenses --
7 recovery by department or county. In a civil action
8 initiated by the department or county under this chapter,
9 the court may, by petition of the department or county,
10 order an establishment that is found in violation of this
11 chapter or rules adopted under this chapter to pay the costs
12 of investigations and any other expenses incurred in
13 enforcing the provisions of this chapter.

14 NEW SECTION. Section 11. Codification instruction.
15 [Sections 4 and 8 through 10] are intended to be codified as
16 an integral part of Title 50, chapter 51, and the provisions
17 of Title 50, chapter 51, apply to [sections 4 and 8 through
18 10].

19 NEW SECTION. Section 12. Coordination instruction. If
20 House Bill No. 943 is passed and approved and if it includes
21 a section defining a sanitarian-in-training, then the
22 bracketed language in [sections 5 through 7 of this act] is
23 effective.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0987, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


A bill to generally revise the laws relating to regulation of hotels, motels, roominghouses, retirement homes, and tourist homes; increasing fees for licensing of such facilities; providing for licensing of bed and breakfasts as a separate category of public accommodations; requiring license fees for bed and breakfasts; creating a special revenue account; allocating funds from the special revenue account to DHES and requiring minimum performance standards for local boards of health to receive funds from the account; providing civil penalties; and authorizing DHES to recover enforcement costs.

ASSUMPTIONS:


1. The number of annual public accommodation licenses issued will remain reasonably constant.
2. The current annual license fee/public accommodation of \$30 of which 85% (\$25.50) is deposited in the state special revenue account (local board inspection fund) and 15% (\$4.50) is deposited in the state general fund will be increased to \$50/public accommodation with 85% (\$42.50) deposited in the state special revenue account (local board inspection fund), 9% (\$4.50) deposited in the state general fund, and 6% (\$3.00) deposited in the special revenue account earmarked for the department.
3. 5% of annual public accommodation license renewals will be delinquent with a late fee penalty of \$25 assessed.
4. The special revenue account earmarked to the department will be used as the funding source for necessary program development resulting from the proposed legislation.

FISCAL IMPACT:

see next page



ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning



BRENT R. CROMLEY, PRIMARY SPONSOR DATE
Fiscal Note for HB0987, as introduced. **HB 987-1**

Fiscal Note Request, HB0987, as introduced.
 Form BD-15
 Page 2

FISCAL IMPACT:

Department of Health and Environmental Sciences:

<u>Expenditures:</u>	<u>FY 92</u>			<u>FY 93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Operating Expenses	0	3,825	3,825	0	3,460	3,460
Grants	<u>22,950</u>	<u>38,250</u>	<u>15,300</u>	<u>22,950</u>	<u>38,250</u>	<u>15,300</u>
Total	22,950	42,075	19,125	22,950	41,710	18,760
<u>Funding:</u>						
Local Brd Insp. Fund (02)	<u>22,950</u>	<u>42,075</u>	<u>19,125</u>	<u>22,950</u>	<u>41,710</u>	<u>18,760</u>
Total	22,950	42,075	19,125	22,950	41,710	18,760
<u>Revenues:</u>						
Late Penalty Fee (01)	1,125	0	(1,125)	1,125	0	(1,125)
Local Brd Insp. Fund (02)	22,950	38,250	15,300	22,950	38,250	15,300
License Renewal (02)	0	2,700	2,700	0	2,700	2,700
Late Penalty Fee (02)	<u>0</u>	<u>1,125</u>	<u>1,125</u>	<u>0</u>	<u>1,125</u>	<u>1,125</u>
Total	24,075	42,075	18,000	24,075	42,075	18,000
General Fund Impact (decrease)			(1,125)			(1,125)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Increasing the public accommodation establishment licensure fee from \$30 to \$50 with 85% deposited in the local board inspection fund would increase the reimbursement per establishment from \$25.50 to \$42.50 for inspection and enforcement of public accommodation establishments by local environmental health programs. Reimbursement from the local board inspection fund to local environmental health programs representing all 56 counties is made in proportion to the number of establishments licensed per jurisdiction.

HB 987-1

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0987, third reading, with amendments

DESCRIPTION OF PROPOSED LEGISLATION:


A bill to generally revise the laws relating to regulation of hotels, motels, roominghouses, retirement homes, and tourist homes; increasing fees for licensing of such facilities; providing for licensing of bed and breakfasts as a separate category of public accommodations; requiring license fees for bed and breakfasts; creating a special revenue account; allocating funds from the special revenue account to DHES and requiring minimum performance standards for local boards of health to receive funds from the account; providing civil penalties; and authorizing DHES to recover enforcement costs.

ASSUMPTIONS:

1. The number of annual public accommodation licenses issued will remain reasonably constant.
2. The current annual license fee/public accommodation of \$30 of which 85% (\$25.50) is deposited in the state special revenue account (local board inspection fund) and 15% (\$4.50) is deposited in the state general fund will be increased to \$40/public accommodation with 85% (\$34.00) deposited in the state special revenue account (local board inspection fund), 9% (\$3.60) deposited in the state general fund, and 6% (\$2.40) deposited in the special revenue account earmarked for the department.
3. 5% of annual public accommodation license renewals will be delinquent with a late fee penalty of \$25 assessed.
4. The special revenue account earmarked to the department will be used as the funding source for necessary program development resulting from the proposed legislation.

FISCAL IMPACT:

see next page


ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning
4-3-91
DATE


BRENT R. CROMLEY, PRIMARY SPONSOR
4/4/91
DATE

Fiscal Note for HB0987, third reading, with amendments.

HR 987.1

FISCAL IMPACT:

Department of Health and Environmental Sciences:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Operating Expenses	0	3,825	3,825	0	3,460	3,460
Grants	<u>22,950</u>	<u>30,600</u>	<u>7,650</u>	<u>22,950</u>	<u>30,600</u>	<u>7,650</u>
Total	22,950	34,425	11,475	22,950	34,060	11,110
<u>Funding:</u>						
General Fund (01)	0	540	540	0	175	175
Local Brd Insp. Fund (02)	<u>22,950</u>	<u>33,885</u>	<u>10,935</u>	<u>22,950</u>	<u>33,885</u>	<u>10,935</u>
Total	22,950	34,425	11,475	22,950	34,060	11,110
<u>Revenues:</u>						
Late Penalty Fee (01)	1,125	0	(1,125)	1,125	0	(1,125)
License Renewals (01)	4,050	3,240	(810)	4,050	3,240	(810)
Local Brd Insp. Fund (02)	22,950	30,600	7,650	22,950	30,600	7,650
License Renewal (02)	0	2,160	2,160	0	2,160	2,160
Late Penalty Fee (02)	<u>0</u>	<u>1,125</u>	<u>1,125</u>	<u>0</u>	<u>1,125</u>	<u>1,125</u>
Total	28,125	37,125	9,000	28,125	37,125	9,000
General Fund Impact (decrease)			(2,475)			(2,110)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Increasing the public accommodation establishment licensure fee from \$30 to \$40 with 85% deposited in the local board inspection fund would increase the reimbursement per establishment from \$25.50 to \$34 for inspection and enforcement of public accommodation establishments by local environmental health programs. Reimbursement from the local board inspection fund to local environmental health programs representing all 56 counties is made in proportion to the number of establishments licensed per jurisdiction.

APPROVED BY COMM. ON BUSINESS AND ECONOMIC DEVELOPMENT

1 HOUSE BILL NO. 987
 2 INTRODUCED BY CROMLEY
 3 BY REQUEST OF THE DEPARTMENT OF
 4 HEALTH AND ENVIRONMENTAL SCIENCES
 5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 7 LAWS RELATING TO REGULATION OF HOTELS, MOTELS,
 8 ROOMINGHOUSES, BOARDINGHOUSES, RETIREMENT HOMES, AND TOURIST
 9 HOMES; ~~PROVIDING--FOR--LICENSING--OF--BEB--AND--BREAKFASTS--AS--A~~
 10 ~~SEPARATE--CATEGORY--OF--PUBLIC--ACCOMMODATIONS--SUBJECT--TO~~
 11 ~~LICENSES~~; INCREASING THE FEE FOR LICENSING OF HOTELS,
 12 MOTELS, ROOMINGHOUSES, RETIREMENT HOMES, AND TOURIST HOMES;
 13 REQUIRING PAYMENT OF THE FEE FOR LICENSING OF BEB--AND
 14 BREAKFASTS--AND BOARDINGHOUSES; CREATING A SPECIAL REVENUE
 15 ACCOUNT FOR THE DEPOSIT OF A PORTION OF LICENSE FEES;
 16 ALLOCATING MONEY IN THE ACCOUNT TO THE DEPARTMENT OF HEALTH
 17 AND ENVIRONMENTAL SCIENCES; CLARIFYING WHO MAY CONDUCT
 18 INVESTIGATIONS AND INSPECTIONS; REQUIRING MINIMUM
 19 PERFORMANCE STANDARDS THAT MUST BE MET IN ORDER FOR THE
 20 LOCAL BOARD OF HEALTH TO RECEIVE PAYMENTS FROM THE LOCAL
 21 BOARD INSPECTION FUND ACCOUNT; REQUIRING PAYMENTS FROM THE
 22 ACCOUNT TO BE USED ONLY FOR THE PURPOSE OF INSPECTION AND
 23 ENFORCEMENT; PROHIBITING FUNDS FROM THE LOCAL BOARD
 24 INSPECTION FUND ACCOUNT FROM BEING USED TO SUPPLANT OTHER
 25 FUNDS RECEIVED BY THE LOCAL BOARD OF HEALTH; PROVIDING CIVIL

1 PENALTIES FOR VIOLATION OF THE LAWS REGULATING BEB--AND
 2 BREAKFASTS; HOTELS, MOTELS, ROOMINGHOUSES, BOARDINGHOUSES,
 3 RETIREMENT HOMES, AND TOURIST HOMES; AUTHORIZING INJUNCTIONS
 4 TO ENJOIN VIOLATIONS OF THE LAWS; ALLOWING THE DEPARTMENT
 5 AND COUNTIES TO RECOVER THE COSTS OF INVESTIGATIONS AND
 6 OTHER EXPENSES IN ENFORCING THE LAWS REGULATING BEB--AND
 7 BREAKFASTS; HOTELS, MOTELS, ROOMINGHOUSES, BOARDINGHOUSES,
 8 RETIREMENT HOMES, AND TOURIST HOMES; AND AMENDING SECTIONS
 9 50-51-102, 50-51-201, 50-51-204, 50-51-301, 50-51-302, AND
 10 50-51-303, MCA."

STATEMENT OF INTENT

13 A statement of intent is required for this bill because
14 it amends 50-51-301 and 50-51-303 to grant the department of
15 health and environmental sciences authority to adopt rules.

16 It is intended that the department adopt rules to:

17 (1) require health officers and sanitarians to make
18 reports to the department concerning investigations and
19 inspections of establishments licensed under Title 50,
20 chapter 51; and

21 (2) establish minimum program performance standards
22 that must be met in order for the local board of health to
23 receive payments from the local board inspection fund
24 account.

25 It is intended that minimum performance standards



1 include but not be limited to measures necessary to ensure
2 the accuracy of inspection reports and to allow statewide
3 standardization of inspections and documentation of work
4 performed.

5 Also, it is recognized that the exact nature of
6 necessary reporting requirements and performance standards
7 is still in the developmental stages. Therefore, it is
8 intended that these requirements be adopted only after close
9 coordination with local health departments and boards and
10 extensive solicitation of comments prior to adoption of
11 final requirements.

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 50-51-102, MCA, is amended to read:

15 "50-51-102. Definitions. Unless the context requires
16 otherwise, in this chapter the following definitions apply:

17 {1}--"Bed-and-breakfast"--means--a--bed--and--breakfast
18 homestay-or-a-bed-and-breakfast-inn;

19 {2}--"Bed--and--breakfast--homestay"--means--a--private,
20 owner-occupied-residence-that-is-primarily-used-as-a-private
21 residence,-but-in-which:

22 {a}--one-to-five-guest-rooms,-with-a-maximum-of-two-beds
23 in--each--room,-are--made--available-to-transient-guests-in
24 order-to-provide-income-for-hosts,-and

25 {b}--breakfast-is-the-only-meal-served-and--is--included

1 in-the-charge-for-the-room;

2 {3}--"Bed---and---breakfast---inn"--means--a--commercial
3 establishment-operated-in-a-building-that-is-used--primarily
4 to--provide--overnight--accommodations-to-the-public,-but-in
5 which:

6 {a}--the-owner-may-live-on-the-premises;

7 {b}--there-are-more-than-five-guest-rooms,-and

8 {c}--breakfast-is-the-only-meal-served-and--is--included
9 in-the-charge-for-the-room;

10 {1}{4}(1) "Board" means the board of health and
11 environmental sciences.

12 {5}(2) "Commercial establishment" means an
13 establishment operated primarily for profit.

14 {2}{6}(3) "Department" means the department of health
15 and environmental sciences.

16 {7}(4) "Establishment" means a ~~bed--and--breakfast,~~
17 hotel, motel, roominghouse, boardinghouse, retirement home,
18 or tourist home.

19 {3}{8}(5) "Hotel" or "motel" includes a building or
20 structure kept, used, maintained as, advertised as, or held
21 out to the public to be a hotel, motel, inn, motor court,
22 tourist court, public lodginghouse, or place where sleeping
23 accommodations are furnished for a fee to transient guests,
24 with or without meals.

25 {4}{9}(6) "Person" includes an individual, partnership,

1 corporation, association, county, municipality, cooperative
 2 group, or other entity engaged in the business of operating,
 3 owning, or offering the services of a hotel, motel, ~~bed--and~~
 4 ~~breakfast~~, boardinghouse, tourist home, retirement home, or
 5 roominghouse.

6 ~~(5)~~~~(10)~~(7) "Roominghouse", "boardinghouse", or
 7 "retirement home" means buildings in which separate sleeping
 8 rooms are rented providing sleeping accommodations for three
 9 or more persons on a weekly, semimonthly, monthly, or
 10 permanent basis, whether or not meals or central kitchens
 11 are provided but without separated cooking facilities or
 12 kitchens within each room, and whose occupants do not need
 13 professional nursing or personal-care services provided by
 14 the facility.

15 ~~(6)~~~~(11)~~(8) "Tourist home" means an establishment or
 16 premises where sleeping accommodations are furnished to
 17 transient guests for hire or rent on a daily or weekly
 18 rental basis in a private home when the accommodations are
 19 offered for hire or rent for the use of the traveling
 20 public.

21 ~~(7)~~~~(12)~~(9) "Transient guest" means a guest for only a
 22 brief stay, such as the traveling public."

23 **Section 2.** Section 50-51-201, MCA, is amended to read:

24 "50-51-201. License required. (1) Each year, every
 25 person engaged in the business of conducting or operating a

1 hotel, motel, tourist home, ~~bed---and---breakfasty~~
 2 boardinghouse, retirement home, or roominghouse shall
 3 procure a license issued by the department.

4 (2) A separate license is required for each
 5 establishment; however, where more than one of each type of
 6 establishment is operated on the same premises and under the
 7 same management, only one license is required which shall
 8 enumerate on the certificate thereof the types of
 9 establishments licensed.

10 (3) Before a license may be issued by the department it
 11 must be validated by the local health officer, or if there
 12 is no local health officer the sanitarian, in the county
 13 where the establishment is located."

14 **Section 3.** Section 50-51-204, MCA, is amended to read:

15 "50-51-204. License fee -- late fee. (1) There shall be
 16 paid to the department with each application for such
 17 license or for renewal of such license an annual license fee
 18 of ~~\$30~~ \$50 \$40. The department shall deposit 85% of the fees
 19 ~~collected in-the-state-special-revenue-fund-to-the-credit-of~~
 20 under this section into the local board inspection fund
 21 account created by in 50-2-108(2) and-the-~~The~~ balance, 9%
 22 OF THE FEES INTO THE GENERAL FUND, AND 6% of the fees must
 23 be-deposited in INTO the general-fund account provided for
 24 in [section 4].

25 (2) In addition to the license fee required under

1 subsection (1), the department shall collect a late fee from
 2 any licensee who has failed to submit a license renewal fee
 3 prior to the expiration of his current license and who
 4 operates an establishment governed by this part in the next
 5 licensing year. The late fee is \$25 and must be deposited in
 6 the ~~state general fund~~ account provided for in [section 4]."

7 NEW SECTION. Section 4. Special revenue account. There
 8 is an account in the state special revenue fund. Money in
 9 the account is allocated to the department to be used to
 10 administer the provisions of this chapter and the rules
 11 adopted under it.

12 **Section 5.** Section 50-51-301, MCA, is amended to read:

13 "50-51-301. Health officers to investigate and make
 14 investigations and inspections. {1} The department, through
 15 its employees and through local, county, and district State
 16 and local health officers, [sanitarians-in-training,] and
 17 registered sanitarians, or other authorized representatives,
 18 shall make all necessary investigations and inspections for
 19 enforcement of this chapter of establishments and make
 20 reports to the department as required under rules adopted by
 21 the department.

22 {2} Each local, county, or district health officer,
 23 sanitarian, or other authorized representative shall make
 24 regular inspections as the rules of the department may
 25 direct and such special inspections as the department may

1 ~~from time to time directly and he shall make such reports~~
 2 ~~relative to conditions existing within his district at such~~
 3 ~~times and in such manner as the department may direct."~~

4 **Section 6.** Section 50-51-302, MCA, is amended to read:

5 "50-51-302. Health officers to have free access. All
 6 persons authorized by this chapter or by regulations adopted
 7 under this chapter shall have State and local health
 8 officers, [sanitarians-in-training,] and registered
 9 sanitarians must be provided free access to establishments
 10 at all reasonable hours to any of the establishments listed
 11 and defined in 50-51-102 for the purpose of making
 12 conducting investigations and inspections as required under
 13 this chapter."

14 **Section 7.** Section 50-51-303, MCA, is amended to read:

15 "50-51-303. Department to pay local board for
 16 inspections and enforcement. (1) Before June 30 of each
 17 year, the department shall pay to a local board of health,
 18 as established under 50-2-104, 50-2-106, or 50-2-107, an
 19 amount from the local board inspection fund {account}
 20 account created by in 50-2-108{2} which is that must be used
 21 only for the purpose of inspecting establishments licensed
 22 under this chapter and enforcing the provisions of this
 23 chapter; provided, however, that:

- 24 (a) there is a functioning local board of health; and
 25 (b) the local board of health, local health officers,

1 ~~[sanitarians-in-training,]~~ and registered sanitarians:

2 (i) assist in the inspections and enforcement of the
3 provisions of this chapter and the rules adopted under it;
4 and

5 (ii) meet minimum program performance standards as
6 established under rules adopted by the department.

7 (2) The funds received by the local board of health
8 shall pursuant to subsection (1) must be deposited with the
9 appropriate local fiscal authority and shall-be-in--addition
10 to--the--funds--appropriated-under-50-2-100-through-50-2-114
11 must be used to supplement, but not supplant, other funds
12 received by the local board of health that in the absence of
13 funding received under subsection (1) would be available for
14 the same purpose.

15 (3) Funds in the local board inspection fund account
16 not paid to the local board of health as provided in
17 subsection (1) may be used by the department, within any
18 jurisdiction that does not qualify to receive payments from
19 the local board inspection fund account, to enforce the
20 provisions of this chapter and the rules adopted under it."

21 NEW SECTION. Section 8. Civil penalties -- injunctions
22 not barred. (1) An establishment that violates this chapter
23 or rules adopted by the department pursuant to this chapter
24 is subject to a civil penalty not to exceed \$500. Each--day
25 of-violation-constitutes-a-separate-violation.

1 (2) Civil action to impose penalties, as provided under
2 this section, does not bar injunctions to enforce compliance
3 with this chapter or to enforce compliance with a rule
4 adopted by the department pursuant to this chapter.

5 NEW SECTION. Section 9. Injunctions. The department or
6 a local board of health may petition the district court to
7 enjoin any action in violation of this chapter or of a rule
8 adopted by the department pursuant to this chapter.

9 NEW SECTION. Section 10. Costs and expenses --
10 recovery by department or county. In a civil action
11 initiated by the department or county under this chapter,
12 the court may, by petition of the department or county,
13 order an establishment that is found in violation of this
14 chapter or rules adopted under this chapter to pay the costs
15 of investigations and any other expenses incurred in
16 enforcing the provisions of this chapter.

17 NEW SECTION. Section 11. Codification instruction.
18 [Sections 4 and 8 through 10] are intended to be codified as
19 an integral part of Title 50, chapter 51, and the provisions
20 of Title 50, chapter 51, apply to [sections 4 and 8 through
21 10].

22 NEW SECTION. Section 12. Coordination instruction. If
23 House Bill No. 943 is passed and approved and if it includes
24 a section defining a sanitarian-in-training, then the
25 bracketed language in [sections 5 through 7 of this act] is

HB 0987/02

1 effective.

-End-

1 HOUSE BILL NO. 987

2 INTRODUCED BY CROMLEY

3 BY REQUEST OF THE DEPARTMENT OF
4 HEALTH AND ENVIRONMENTAL SCIENCES

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
7 LAWS RELATING TO REGULATION OF HOTELS, MOTELS,
8 ROOMINGHOUSES, BOARDINGHOUSES, RETIREMENT HOMES, AND TOURIST
9 HOMES; PROVIDING--FOR--LICENSING-OF-BED-AND-BREAKFASTS-AS-A
10 SEPARATE--CATEGORY--OF--PUBLIC--ACCOMMODATIONS--SUBJECT---TO
11 LICENSURE; INCREASING THE FEE FOR LICENSING OF HOTELS,
12 MOTELS, ROOMINGHOUSES, RETIREMENT HOMES, AND TOURIST HOMES;
13 REQUIRING PAYMENT OF THE FEE FOR LICENSING OF BED-AND
14 BREAKFASTS-AND BOARDINGHOUSES; CREATING A SPECIAL REVENUE
15 ACCOUNT FOR THE DEPOSIT OF A PORTION OF LICENSE FEES;
16 ALLOCATING MONEY IN THE ACCOUNT TO THE DEPARTMENT OF HEALTH
17 AND ENVIRONMENTAL SCIENCES; CLARIFYING WHO MAY CONDUCT
18 INVESTIGATIONS AND INSPECTIONS; REQUIRING MINIMUM
19 PERFORMANCE STANDARDS THAT MUST BE MET IN ORDER FOR THE
20 LOCAL BOARD OF HEALTH TO RECEIVE PAYMENTS FROM THE LOCAL
21 BOARD INSPECTION FUND ACCOUNT; REQUIRING PAYMENTS FROM THE
22 ACCOUNT TO BE USED ONLY FOR THE PURPOSE OF INSPECTION AND
23 ENFORCEMENT; PROHIBITING FUNDS FROM THE LOCAL BOARD
24 INSPECTION FUND ACCOUNT FROM BEING USED TO SUPPLANT OTHER
25 FUNDS RECEIVED BY THE LOCAL BOARD OF HEALTH; PROVIDING CIVIL

1 PENALTIES FOR VIOLATION OF THE LAWS REGULATING BED--AND
2 BREAKFASTS, HOTELS, MOTELS, ROOMINGHOUSES, BOARDINGHOUSES,
3 RETIREMENT HOMES, AND TOURIST HOMES; AUTHORIZING INJUNCTIONS
4 TO ENJOIN VIOLATIONS OF THE LAWS; ALLOWING THE DEPARTMENT
5 AND COUNTIES TO RECOVER THE COSTS OF INVESTIGATIONS AND
6 OTHER EXPENSES IN ENFORCING THE LAWS REGULATING BED--AND
7 BREAKFASTS, HOTELS, MOTELS, ROOMINGHOUSES, BOARDINGHOUSES,
8 RETIREMENT HOMES, AND TOURIST HOMES; AND AMENDING SECTIONS
9 50-51-102, 50-51-201, 50-51-204, 50-51-301, 50-51-302, AND
10 50-51-303, MCA."
11

12 STATEMENT OF INTENT

13 A statement of intent is required for this bill because
14 it amends 50-51-301 and 50-51-303 to grant the department of
15 health and environmental sciences authority to adopt rules.

16 It is intended that the department adopt rules to:

17 (1) require health officers and sanitarians to make
18 reports to the department concerning investigations and
19 inspections of establishments licensed under Title 50,
20 chapter 51; and

21 (2) establish minimum program performance standards
22 that must be met in order for the local board of health to
23 receive payments from the local board inspection fund
24 account.

25 It is intended that minimum performance standards

1 include but not be limited to measures necessary to ensure
 2 the accuracy of inspection reports and to allow statewide
 3 standardization of inspections and documentation of work
 4 performed.

5 Also, it is recognized that the exact nature of
 6 necessary reporting requirements and performance standards
 7 is still in the developmental stages. Therefore, it is
 8 intended that these requirements be adopted only after close
 9 coordination with local health departments and boards and
 10 extensive solicitation of comments prior to adoption of
 11 final requirements.

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 50-51-102, MCA, is amended to read:

15 "50-51-102. Definitions. Unless the context requires
 16 otherwise, in this chapter the following definitions apply:

17 {1}--"Bed-and--breakfast"--means--a--bed--and--breakfast
 18 homestay-or-a-bed-and-breakfast-inn;

19 {2}--"Bed--and--breakfast--homestay"--means--a--private,
 20 owner-occupied-residence-that-is-primarily-used-as-a-private
 21 residence-but-in-which:

22 {a}--one-to-five-guest-rooms-with-a-maximum-of-two-beds
 23 in-each--roomy--are--made--available-to-transient-guests-in
 24 order-to-provide-income-for-hosts;-and

25 {b}--breakfast-is-the-only-meal-served-and-is-included

1 in-the-charge-for-the-room;

2 {3}--"Bed--and--breakfast--inn"--means--a--commercial
 3 establishment-operated-in-a-building-that-is-used--primarily
 4 to--provide--overnight--accommodations-to-the-public;-but-in
 5 which:

6 {a}--the-owner-may-live-on-the-premises;

7 {b}--there-are-more-than-five-guest-rooms;-and

8 {c}--breakfast-is-the-only-meal-served-and-is-included
 9 in-the-charge-for-the-room;

10 {1}{4}(1) "Board" means the board of health and
 11 environmental sciences.

12 {5}(2) "Commercial establishment" means an
 13 establishment operated primarily for profit.

14 {2}{6}(3) "Department" means the department of health
 15 and environmental sciences.

16 {7}(4) "Establishment" means a bed--and--breakfast,
 17 hotel, motel, roominghouse, boardinghouse, retirement home,
 18 or tourist home.

19 {3}{8}(5) "Hotel" or "motel" includes a building or
 20 structure kept, used, maintained as, advertised as, or held
 21 out to the public to be a hotel, motel, inn, motor court,
 22 tourist court, public lodginghouse, or place where sleeping
 23 accommodations are furnished for a fee to transient guests,
 24 with or without meals.

25 {4}{9}(6) "Person" includes an individual, partnership,

1 corporation, association, county, municipality, cooperative
 2 group, or other entity engaged in the business of operating,
 3 owning, or offering the services of a hotel, motel, bed--and
 4 breakfasty boardinghouse, tourist home, retirement home, or
 5 roominghouse.

6 ~~(5)~~~~(10)~~~~(7)~~ "Roominghouse", "boardinghouse", or
 7 "retirement home" means buildings in which separate sleeping
 8 rooms are rented providing sleeping accommodations for three
 9 or more persons on a weekly, semimonthly, monthly, or
 10 permanent basis, whether or not meals or central kitchens
 11 are provided but without separated cooking facilities or
 12 kitchens within each room, and whose occupants do not need
 13 professional nursing or personal-care services provided by
 14 the facility.

15 ~~(6)~~~~(11)~~~~(8)~~ "Tourist home" means an establishment or
 16 premises where sleeping accommodations are furnished to
 17 transient guests for hire or rent on a daily or weekly
 18 rental basis in a private home when the accommodations are
 19 offered for hire or rent for the use of the traveling
 20 public.

21 ~~(7)~~~~(12)~~~~(9)~~ "Transient guest" means a guest for only a
 22 brief stay, such as the traveling public."

23 **Section 2.** Section 50-51-201, MCA, is amended to read:

24 "50-51-201. License required. (1) Each year, every
 25 person engaged in the business of conducting or operating a

1 hotel, motel, tourist home, bed---and---breakfasty
 2 boardinghouse, retirement home, or roominghouse shall
 3 procure a license issued by the department.

4 (2) A separate license is required for each
 5 establishment; however, where more than one of each type of
 6 establishment is operated on the same premises and under the
 7 same management, only one license is required which shall
 8 enumerate on the certificate thereof the types of
 9 establishments licensed.

10 (3) Before a license may be issued by the department it
 11 must be validated by the local health officer, or if there
 12 is no local health officer the sanitarian, in the county
 13 where the establishment is located."

14 **Section 3.** Section 50-51-204, MCA, is amended to read:

15 "50-51-204. License fee -- late fee. (1) There shall be
 16 paid to the department with each application for such
 17 license or for renewal of such license an annual license fee
 18 of ~~30~~ 50 \$40. The department shall deposit 85% of the fees
 19 ~~collected in-the-state-special-revenue-fund-to-the-credit-of~~
 20 under this section into the local board inspection fund
 21 account created by in 50-2-108~~(2)~~ and-the-~~The~~ balance, 9%
 22 OF THE FEES INTO THE GENERAL FUND, AND 6% of the fees must
 23 be-deposited in INTO the general-fund account provided for
 24 in [section 4].

25 (2) In addition to the license fee required under

1 subsection (1), the department shall collect a late fee from
 2 any licensee who has failed to submit a license renewal fee
 3 prior to the expiration of his current license and who
 4 operates an establishment governed by this part in the next
 5 licensing year. The late fee is \$25 and must be deposited in
 6 the ~~state-general-fund~~ account provided for in [section 4]."

7 NEW SECTION. Section 4. Special revenue account. There
 8 is an account in the state special revenue fund. Money in
 9 the account is allocated to the department to be used to
 10 administer the provisions of this chapter and the rules
 11 adopted under it.

12 **Section 5.** Section 50-51-301, MCA, is amended to read:

13 "50-51-301. Health officers to investigate--and make
 14 investigations and inspections. (1) The department, through
 15 its employees and through local, county, and district State
 16 and local health officers, [sanitarians-in-training,] and
 17 registered sanitarians, or other authorized representatives,
 18 shall make all necessary investigations and inspections for
 19 enforcement--of--this--chapter of establishments and make
 20 reports to the department as required under rules adopted by
 21 the department.

22 ~~(2) Each local, county, or district health officer,~~
 23 ~~sanitarian, or other authorized representative shall make~~
 24 ~~regular inspections as the rules of the department may~~
 25 ~~direct--and--such--special--inspections--as--the--department--may~~

1 ~~from time to time directly, and he shall make such reports~~
 2 ~~relative to conditions existing within his district at such~~
 3 ~~times and in such manner as the department may direct."~~

4 **Section 6.** Section 50-51-302, MCA, is amended to read:

5 "50-51-302. Health officers to have free access. All
 6 persons authorized by this chapter or by regulations adopted
 7 under this chapter shall have State and local health
 8 officers[, sanitarians-in-training,] and registered
 9 sanitarians must be provided free access to establishments
 10 at all reasonable hours to any of the establishments listed
 11 and defined in 50-51-102 for the purpose of making
 12 conducting investigations and inspections as required under
 13 this chapter."

14 **Section 7.** Section 50-51-303, MCA, is amended to read:

15 "50-51-303. Department to pay local board for
 16 inspections and enforcement. (1) Before June 30 of each
 17 year, the department shall pay to a local board of health,
 18 as established under 50-2-104, 50-2-106, or 50-2-107, an
 19 amount from the local board inspection fund (account)
 20 account created by in 50-2-108(2) which is that must be used
 21 only for the purpose of inspecting establishments licensed
 22 under this chapter and enforcing the provisions of this
 23 chapter; provided, however, that:

- 24 (a) there is a functioning local board of health; and
 25 (b) the local board of health, local health officers,

1 [sanitarians-in-training,] and registered sanitarians:

2 (i) assist in the inspections and enforcement of the
3 provisions of this chapter and the rules adopted under it;
4 and

5 (ii) meet minimum program performance standards as
6 established under rules adopted by the department.

7 (2) The funds received by the local board of health
8 shall pursuant to subsection (1) must be deposited with the
9 appropriate local fiscal authority and shall-be-in--addition
10 to--the--funds--appropriated-under-50-2-108-through-50-2-114
11 must be used to supplement, but not supplant, other funds
12 received by the local board of health that in the absence of
13 funding received under subsection (1) would be available for
14 the same purpose.

15 (3) Funds in the local board inspection fund account
16 not paid to the local board of health as provided in
17 subsection (1) may be used by the department, within any
18 jurisdiction that does not qualify to receive payments from
19 the local board inspection fund account, to enforce the
20 provisions of this chapter and the rules adopted under it."

21 **NEW SECTION. Section 8. Civil penalties -- injunctions**
22 **not barred.** (1) An establishment that violates this chapter
23 or rules adopted by the department pursuant to this chapter
24 is subject to a civil penalty not to exceed \$500. Each--day
25 of-violation-constitutes-a-separate-violation

1 (2) Civil action to impose penalties, as provided under
2 this section, does not bar injunctions to enforce compliance
3 with this chapter or to enforce compliance with a rule
4 adopted by the department pursuant to this chapter.

5 **NEW SECTION. Section 9. Injunctions.** The department or
6 a local board of health may petition the district court to
7 enjoin any action in violation of this chapter or of a rule
8 adopted by the department pursuant to this chapter.

9 **NEW SECTION. Section 10. Costs and expenses --**
10 **recovery by department or county.** In a civil action
11 initiated by the department or county under this chapter,
12 the court may, by petition of the department or county,
13 order an establishment that is found in violation of this
14 chapter or rules adopted under this chapter to pay the costs
15 of investigations and any other expenses incurred in
16 enforcing the provisions of this chapter.

17 **NEW SECTION. Section 11. Codification instruction.**
18 [Sections 4 and 8 through 10] are intended to be codified as
19 an integral part of Title 50, chapter 51, and the provisions
20 of Title 50, chapter 51, apply to [sections 4 and 8 through
21 10].

22 **NEW SECTION. Section 12. Coordination instruction.** If
23 House Bill No. 943 is passed and approved and if it includes
24 a section defining a sanitarian-in-training, then the
25 bracketed language in [sections 5 through 7 of this act] is

HB 0987/02

1 effective.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 2, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 987 (third reading copy -- blue), respectfully report that House Bill No. 987 be amended and as so amended be concurred in:

1. Page 6, line 18.

Strike: "\$40"

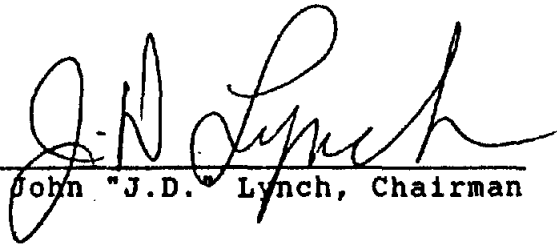
Insert: "\$50"

2. Page 10, line 12.

Following: "may,"

Insert: "in the case of a willful violation of this chapter,"

Signed:



John "J.D." Lynch, Chairman

LB 4/9/91
Amd. Coord.

SB 4/2
Sec. of Senate

SENATE
HB 987

1 HOUSE BILL NO. 987
 2 INTRODUCED BY CROMLEY
 3 BY REQUEST OF THE DEPARTMENT OF
 4 HEALTH AND ENVIRONMENTAL SCIENCES
 5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 7 LAWS RELATING TO REGULATION OF HOTELS, MOTELS,
 8 ROOMINGHOUSES, BOARDINGHOUSES, RETIREMENT HOMES, AND TOURIST
 9 HOMES; ~~PROVIDING--FOR--LICENSING--OF--BEB--AND--BREAKFASTS--AS--A~~
 10 ~~SEPARATE--CATEGORY--OF--PUBLIC--ACCOMMODATIONS--SUBJECT--TO~~
 11 ~~LICENSURE~~; INCREASING THE FEE FOR LICENSING OF HOTELS,
 12 MOTELS, ROOMINGHOUSES, RETIREMENT HOMES, AND TOURIST HOMES;
 13 REQUIRING PAYMENT OF THE FEE FOR LICENSING OF BEB--AND
 14 BREAKFASTS--AND BOARDINGHOUSES; CREATING A SPECIAL REVENUE
 15 ACCOUNT FOR THE DEPOSIT OF A PORTION OF LICENSE FEES;
 16 ALLOCATING MONEY IN THE ACCOUNT TO THE DEPARTMENT OF HEALTH
 17 AND ENVIRONMENTAL SCIENCES; CLARIFYING WHO MAY CONDUCT
 18 INVESTIGATIONS AND INSPECTIONS; REQUIRING MINIMUM
 19 PERFORMANCE STANDARDS THAT MUST BE MET IN ORDER FOR THE
 20 LOCAL BOARD OF HEALTH TO RECEIVE PAYMENTS FROM THE LOCAL
 21 BOARD INSPECTION FUND ACCOUNT; REQUIRING PAYMENTS FROM THE
 22 ACCOUNT TO BE USED ONLY FOR THE PURPOSE OF INSPECTION AND
 23 ENFORCEMENT; PROHIBITING FUNDS FROM THE LOCAL BOARD
 24 INSPECTION FUND ACCOUNT FROM BEING USED TO SUPPLANT OTHER
 25 FUNDS RECEIVED BY THE LOCAL BOARD OF HEALTH; PROVIDING CIVIL

1 PENALTIES FOR VIOLATION OF THE LAWS REGULATING BEB--AND
 2 BREAKFASTS, HOTELS, MOTELS, ROOMINGHOUSES, BOARDINGHOUSES,
 3 RETIREMENT HOMES, AND TOURIST HOMES; AUTHORIZING INJUNCTIONS
 4 TO ENJOIN VIOLATIONS OF THE LAWS; ALLOWING THE DEPARTMENT
 5 AND COUNTIES TO RECOVER THE COSTS OF INVESTIGATIONS AND
 6 OTHER EXPENSES IN ENFORCING THE LAWS REGULATING BEB--AND
 7 BREAKFASTS, HOTELS, MOTELS, ROOMINGHOUSES, BOARDINGHOUSES,
 8 RETIREMENT HOMES, AND TOURIST HOMES; AND AMENDING SECTIONS
 9 50-51-102, 50-51-201, 50-51-204, 50-51-301, 50-51-302, AND
 10 50-51-303, MCA."

11 STATEMENT OF INTENT

12
 13 A statement of intent is required for this bill because
 14 it amends 50-51-301 and 50-51-303 to grant the department of
 15 health and environmental sciences authority to adopt rules.

16 It is intended that the department adopt rules to:

17 (1) require health officers and sanitarians to make
 18 reports to the department concerning investigations and
 19 inspections of establishments licensed under Title 50,
 20 chapter 51; and

21 (2) establish minimum program performance standards
 22 that must be met in order for the local board of health to
 23 receive payments from the local board inspection fund
 24 account.

25 It is intended that minimum performance standards

1 include but not be limited to measures necessary to ensure
2 the accuracy of inspection reports and to allow statewide
3 standardization of inspections and documentation of work
4 performed.

5 Also, it is recognized that the exact nature of
6 necessary reporting requirements and performance standards
7 is still in the developmental stages. Therefore, it is
8 intended that these requirements be adopted only after close
9 coordination with local health departments and boards and
10 extensive solicitation of comments prior to adoption of
11 final requirements.

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 50-51-102, MCA, is amended to read:

15 **"50-51-102. Definitions.** Unless the context requires
16 otherwise, in this chapter the following definitions apply:

17 ~~{1}~~--"Bed-and--breakfast"--means--a--bed--and--breakfast
18 ~~homestay-or-a-bed-and-breakfast-inn;~~

19 ~~{2}~~--"Bed--and--breakfast--homestay"--means--a--private,
20 ~~owner-occupied-residence-that-is-primarily-used-as-a-private~~
21 ~~residence,--but-in-which:~~

22 ~~{a}~~--one-to-five-guest-rooms,--with-a-maximum-of-two-beds
23 ~~in--each--room,--are--made--available--to-transient-guests-in~~
24 ~~order-to-provide-income-for-hosts,--and~~

25 ~~{b}~~--breakfast-is-the-only-meal-served-and--is--included

1 ~~in-the-charge-for-the-room;~~

2 ~~{3}~~--"Bed--and--breakfast--inn"--means--a--commercial
3 ~~establishment-operated-in-a-building-that-is-used--primarily~~
4 ~~to--provide--overnight--accommodations-to-the-public,--but-in~~
5 ~~which:~~

6 ~~{a}~~--the-owner-may-live-on-the-premises;

7 ~~{b}~~--there-are-more-than-five-guest-rooms,--and

8 ~~{c}~~--breakfast-is-the-only-meal-served-and--is--included
9 ~~in-the-charge-for-the-room;~~

10 ~~{1}~~{4}(1) "Board" means the board of health and
11 ~~environmental sciences.~~

12 ~~{5}(2) "Commercial establishment" means an~~
13 ~~establishment operated primarily for profit.~~

14 ~~{2}~~{6}(3) "Department" means the department of health
15 ~~and environmental sciences.~~

16 ~~{7}(4) "Establishment" means a bed--and--breakfast,~~
17 ~~hotel, motel, roominghouse, boardinghouse, retirement home,~~
18 ~~or tourist home.~~

19 ~~{3}~~{8}(5) "Hotel" or "motel" includes a building or
20 ~~structure kept, used, maintained as, advertised as, or held~~
21 ~~out to the public to be a hotel, motel, inn, motor court,~~
22 ~~tourist court, public lodginghouse, or place where sleeping~~
23 ~~accommodations are furnished for a fee to transient guests,~~
24 ~~with or without meals.~~

25 ~~{4}~~{9}(6) "Person" includes an individual, partnership,

1 corporation, association, county, municipality, cooperative
 2 group, or other entity engaged in the business of operating,
 3 owning, or offering the services of a hotel, motel, ~~bed--and~~
 4 ~~breakfast,~~ boardinghouse, tourist home, retirement home, or
 5 roominghouse.

6 ~~(5)(7)~~ (7) "Roominghouse", "boardinghouse", or
 7 "retirement home" means buildings in which separate sleeping
 8 rooms are rented providing sleeping accommodations for three
 9 or more persons on a weekly, semimonthly, monthly, or
 10 permanent basis, whether or not meals or central kitchens
 11 are provided but without separated cooking facilities or
 12 kitchens within each room, and whose occupants do not need
 13 professional nursing or personal-care services provided by
 14 the facility.

15 ~~(6)(11)~~ (8) "Tourist home" means an establishment or
 16 premises where sleeping accommodations are furnished to
 17 transient guests for hire or rent on a daily or weekly
 18 rental basis in a private home when the accommodations are
 19 offered for hire or rent for the use of the traveling
 20 public.

21 ~~(7)(12)~~ (9) "Transient guest" means a guest for only a
 22 brief stay, such as the traveling public."

23 **Section 2.** Section 50-51-201, MCA, is amended to read:

24 "50-51-201. License required. (1) Each year, every
 25 person engaged in the business of conducting or operating a

1 hotel, motel, tourist home, ~~bed---and---breakfast,~~
 2 boardinghouse, retirement home, or roominghouse shall
 3 procure a license issued by the department.

4 (2) A separate license is required for each
 5 establishment; however, where more than one of each type of
 6 establishment is operated on the same premises and under the
 7 same management, only one license is required which shall
 8 enumerate on the certificate thereof the types of
 9 establishments licensed.

10 (3) Before a license may be issued by the department it
 11 must be validated by the local health officer, or if there
 12 is no local health officer the sanitarian, in the county
 13 where the establishment is located."

14 **Section 3.** Section 50-51-204, MCA, is amended to read:

15 "50-51-204. License fee -- late fee. (1) There shall be
 16 paid to the department with each application for such
 17 license or for renewal of such license an annual license fee
 18 of ~~\$30~~ \$50 ~~\$40~~ \$50. The department shall deposit 85% of the
 19 fees collected ~~in-the-state--special--revenue--fund--to--the~~
 20 ~~credit-of~~ under this section into the local board inspection
 21 fund account created by in 50-2-108(2) and the ~~The~~ balance,
 22 9% OF THE FEES INTO THE GENERAL FUND, AND 6% of the fees
 23 must-be-deposited in INTO the general-fund account provided
 24 for in [section 4].

25 (2) In addition to the license fee required under

1 subsection (1), the department shall collect a late fee from
 2 any licensee who has failed to submit a license renewal fee
 3 prior to the expiration of his current license and who
 4 operates an establishment governed by this part in the next
 5 licensing year. The late fee is \$25 and must be deposited in
 6 the ~~state-general-fund~~ account provided for in [section 4]."

7 NEW SECTION. Section 4. Special revenue account. There
 8 is an account in the state special revenue fund. Money in
 9 the account is allocated to the department to be used to
 10 administer the provisions of this chapter and the rules
 11 adopted under it.

12 **Section 5.** Section 50-51-301, MCA, is amended to read:

13 "50-51-301. Health officers to investigate--and make
 14 investigations and inspections. (1) The department, through
 15 its employees and through local, county, and district State
 16 and local health officers, [sanitarians-in-training,] and
 17 registered sanitarians, or other authorized representatives,
 18 shall make all-necessary investigations and inspections for
 19 enforcement--of--this--chapter of establishments and make
 20 reports to the department as required under rules adopted by
 21 the department.

22 (2) Each local, county, or district health officer,
 23 sanitarian, or other authorized representative shall make
 24 regular inspections as the rules of the department may
 25 direct--and--such--special--inspections--as--the--department--may

1 ~~from-time-to-time-direct, and he shall make such reports~~
 2 ~~relative--to-conditions-existing-within-his-district-at-such~~
 3 ~~times-and-in-such-manner-as-the-department-may-direct."~~

4 **Section 6.** Section 50-51-302, MCA, is amended to read:

5 "50-51-302. Health officers to have free access. All
 6 persons authorized by this chapter or by regulations adopted
 7 under--this--chapter shall have State and local health
 8 officers[, sanitarians-in-training,] and registered
 9 sanitarians must be provided free access to establishments
 10 at all reasonable hours to any of the establishments--listed
 11 and---defined---in--50-51-102 for the purpose of making
 12 conducting investigations and inspections as required under
 13 this chapter."

14 **Section 7.** Section 50-51-303, MCA, is amended to read:

15 "50-51-303. Department to pay local board for
 16 inspections and enforcement. (1) Before June 30 of each
 17 year, the department shall pay to a local board of health,
 18 as established under 50-2-104, 50-2-106, or 50-2-107, an
 19 amount from the local board inspection fund (account)
 20 account created by in 50-2-108(2) which is that must be used
 21 only for the purpose of inspecting establishments licensed
 22 under this chapter and enforcing the provisions of this
 23 chapter; provided, however, that:

- 24 (a) there is a functioning local board of health; and
 25 (b) the local board of health, local health officers,

1 ~~(sanitarians-in-training,)~~ and registered sanitarians:

2 (i) assist in the inspections and enforcement of the

3 provisions of this chapter and the rules adopted under it;

4 and

5 (ii) meet minimum program performance standards as

6 established under rules adopted by the department.

7 (2) The funds received by the local board of health

8 shall pursuant to subsection (1) must be deposited with the

9 appropriate local fiscal authority and shall-be-in--addition

10 to--the--funds--appropriated-under-50-2-100-through-50-2-114

11 must be used to supplement, but not supplant, other funds

12 received by the local board of health that in the absence of

13 funding received under subsection (1) would be available for

14 the same purpose.

15 (3) Funds in the local board inspection fund account

16 not paid to the local board of health as provided in

17 subsection (1) may be used by the department, within any

18 jurisdiction that does not qualify to receive payments from

19 the local board inspection fund account, to enforce the

20 provisions of this chapter and the rules adopted under it."

21 NEW SECTION. Section 8. Civil penalties -- injunctions

22 not barred. (1) An establishment that violates this chapter

23 or rules adopted by the department pursuant to this chapter

24 is subject to a civil penalty not to exceed \$500. ~~Each-day~~

25 ~~of-violation-constitutes-a-separate-violation.~~

1 (2) Civil action to impose penalties, as provided under

2 this section, does not bar injunctions to enforce compliance

3 with this chapter or to enforce compliance with a rule

4 adopted by the department pursuant to this chapter.

5 NEW SECTION. Section 9. Injunctions. The department or

6 a local board of health may petition the district court to

7 enjoin any action in violation of this chapter or of a rule

8 adopted by the department pursuant to this chapter.

9 NEW SECTION. Section 10. Costs and expenses --

10 recovery by department or county. In a civil action

11 initiated by the department or county under this chapter,

12 the court may, IN THE CASE OF A WILLFUL VIOLATION OF THIS

13 CHAPTER, by petition of the department or county, order an

14 establishment that is found in violation of this chapter or

15 rules adopted under this chapter to pay the costs of

16 investigations and any other expenses incurred in enforcing

17 the provisions of this chapter.

18 NEW SECTION. Section 11. Codification instruction.

19 [Sections 4 and 8 through 10] are intended to be codified as

20 an integral part of Title 50, chapter 51, and the provisions

21 of Title 50, chapter 51, apply to [sections 4 and 8 through

22 10].

23 NEW SECTION. Section 12. Coordination instruction. If

24 House Bill No. 943 is passed and approved and if it includes

25 a section defining a sanitarian-in-training, then the

HB 0987/03

- 1 bracketed language in [sections 5 through 7 of this act] is
- 2 effective.

-End-

Free Conference Committee
on House Bill 987
Report No. 1, April 18, 1991

4-19-91
8:55am
PDB

Page 1 of 1

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered House Bill 987 and recommend that House Bill 987 (reference copy -- salmon) be amended as follows:

1. Page 6, line 18.

Strike: "\$50"

Insert: "\$40"

2. Page 6, line 22.

Strike: "9%"

Insert: "11.25%"

Strike: "6%"

Insert: "3.75%"

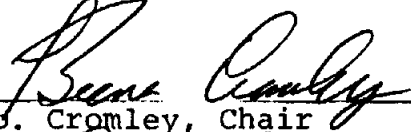
3. Page 10, lines 12 and 13.

Strike: "IN THE CASE OF A WILLFUL VIOLATION OF THIS CHAPTER,"

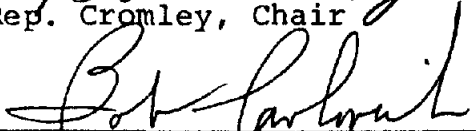
And this Free Conference Committee report be adopted.

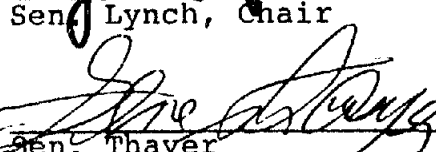
For the House:

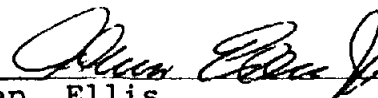
For the Senate:


Rep. Cromley, Chair


Sen. Lynch, Chair


Rep. Pavlovich


Sen. Thayer


Rep. Ellis


Sen. Kennedy

ADOPT

REJECT

F.C.C.R. #1
HB 987
831053CC.HSF

1 HOUSE BILL NO. 987
 2 INTRODUCED BY CROMLEY
 3 BY REQUEST OF THE DEPARTMENT OF
 4 HEALTH AND ENVIRONMENTAL SCIENCES
 5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 7 LAWS RELATING TO REGULATION OF HOTELS, MOTELS,
 8 ROOMINGHOUSES, BOARDINGHOUSES, RETIREMENT HOMES, AND TOURIST
 9 HOMES; ~~PROVIDING--FOR--LICENSING--OF--BED--AND--BREAKFASTS--AS--A~~
 10 ~~SEPARATE--CATEGORY--OF--PUBLIC--ACCOMMODATIONS--SUBJECT--TO~~
 11 ~~LICENSURE~~; INCREASING THE FEE FOR LICENSING OF HOTELS,
 12 MOTELS, ROOMINGHOUSES, RETIREMENT HOMES, AND TOURIST HOMES;
 13 REQUIRING PAYMENT OF THE FEE FOR LICENSING OF ~~BED--AND~~
 14 ~~BREAKFASTS--AND~~ BOARDINGHOUSES; CREATING A SPECIAL REVENUE
 15 ACCOUNT FOR THE DEPOSIT OF A PORTION OF LICENSE FEES;
 16 ALLOCATING MONEY IN THE ACCOUNT TO THE DEPARTMENT OF HEALTH
 17 AND ENVIRONMENTAL SCIENCES; CLARIFYING WHO MAY CONDUCT
 18 INVESTIGATIONS AND INSPECTIONS; REQUIRING MINIMUM
 19 PERFORMANCE STANDARDS THAT MUST BE MET IN ORDER FOR THE
 20 LOCAL BOARD OF HEALTH TO RECEIVE PAYMENTS FROM THE LOCAL
 21 BOARD INSPECTION FUND ACCOUNT; REQUIRING PAYMENTS FROM THE
 22 ACCOUNT TO BE USED ONLY FOR THE PURPOSE OF INSPECTION AND
 23 ENFORCEMENT; PROHIBITING FUNDS FROM THE LOCAL BOARD
 24 INSPECTION FUND ACCOUNT FROM BEING USED TO SUPPLANT OTHER
 25 FUNDS RECEIVED BY THE LOCAL BOARD OF HEALTH; PROVIDING CIVIL

1 PENALTIES FOR VIOLATION OF THE LAWS REGULATING ~~BED--AND~~
 2 ~~BREAKFASTS~~, HOTELS, MOTELS, ROOMINGHOUSES, BOARDINGHOUSES,
 3 RETIREMENT HOMES, AND TOURIST HOMES; AUTHORIZING INJUNCTIONS
 4 TO ENJOIN VIOLATIONS OF THE LAWS; ALLOWING THE DEPARTMENT
 5 AND COUNTIES TO RECOVER THE COSTS OF INVESTIGATIONS AND
 6 OTHER EXPENSES IN ENFORCING THE LAWS REGULATING ~~BED--AND~~
 7 ~~BREAKFASTS~~, HOTELS, MOTELS, ROOMINGHOUSES, BOARDINGHOUSES,
 8 RETIREMENT HOMES, AND TOURIST HOMES; AND AMENDING SECTIONS
 9 50-51-102, 50-51-201, 50-51-204, 50-51-301, 50-51-302, AND
 10 50-51-303, MCA."

12 STATEMENT OF INTENT

13 A statement of intent is required for this bill because
 14 it amends 50-51-301 and 50-51-303 to grant the department of
 15 health and environmental sciences authority to adopt rules.

16 It is intended that the department adopt rules to:

17 (1) require health officers and sanitarians to make
 18 reports to the department concerning investigations and
 19 inspections of establishments licensed under Title 50,
 20 chapter 51; and

21 (2) establish minimum program performance standards
 22 that must be met in order for the local board of health to
 23 receive payments from the local board inspection fund
 24 account.

25 It is intended that minimum performance standards



1 include but not be limited to measures necessary to ensure
 2 the accuracy of inspection reports and to allow statewide
 3 standardization of inspections and documentation of work
 4 performed.

5 Also, it is recognized that the exact nature of
 6 necessary reporting requirements and performance standards
 7 is still in the developmental stages. Therefore, it is
 8 intended that these requirements be adopted only after close
 9 coordination with local health departments and boards and
 10 extensive solicitation of comments prior to adoption of
 11 final requirements.

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 50-51-102, MCA, is amended to read:

15 "50-51-102. Definitions. Unless the context requires
 16 otherwise, in this chapter the following definitions apply:

17 ~~{1}~~--"Bed-and--breakfast"--means--a--bed--and--breakfast
 18 homestay-or-a-bed-and-breakfast-inn;

19 ~~{2}~~--"Bed--and--breakfast--homestay"--means--a--private,
 20 owner-occupied-residence-that-is-primarily-used-as-a-private
 21 residence,-but-in-which:

22 ~~{a}~~--one-to-five-guest-rooms,-with-a-maximum-of-two-beds
 23 in--each--room,-are--made--available-to-transient-guests-in
 24 order-to-provide-income-for-hosts;-and

25 ~~{b}~~--breakfast-is-the-only-meal-served-and-is-included

1 in-the-charge-for-the-room;

2 ~~{3}~~--"Bed--and--breakfast--inn"--means--a--commercial
 3 establishment-operated-in-a-building-that-is-used--primarily
 4 to--provide--overnight--accommodations-to-the-public,-but-in
 5 which:

6 ~~{a}~~--the-owner-may-live-on-the-premises;

7 ~~{b}~~--there-are-more-than-five-guest-rooms;-and

8 ~~{c}~~--breakfast-is-the-only-meal-served-and-is-included
 9 in-the-charge-for-the-room;

10 ~~{1}~~~~{4}~~(1) "Board" means the board of health and
 11 environmental sciences.

12 ~~{5}~~(2) "Commercial establishment" means an
 13 establishment operated primarily for profit.

14 ~~{2}~~~~{6}~~(3) "Department" means the department of health
 15 and environmental sciences.

16 ~~{7}~~(4) "Establishment" means a bed--and--breakfast,
 17 hotel, motel, roominghouse, boardinghouse, retirement home,
 18 or tourist home.

19 ~~{3}~~~~{8}~~(5) "Hotel" or "motel" includes a building or
 20 structure kept, used, maintained as, advertised as, or held
 21 out to the public to be a hotel, motel, inn, motor court,
 22 tourist court, public lodginghouse, or place where sleeping
 23 accommodations are furnished for a fee to transient guests,
 24 with or without meals.

25 ~~{4}~~~~{9}~~(6) "Person" includes an individual, partnership,

1 corporation, association, county, municipality, cooperative
 2 group, or other entity engaged in the business of operating,
 3 owning, or offering the services of a hotel, motel, ~~bed--and~~
 4 ~~breakfast~~, boardinghouse, tourist home, retirement home, or
 5 roominghouse.

6 ~~(5)(10)(7)~~ "Roominghouse", "boardinghouse", or
 7 "retirement home" means buildings in which separate sleeping
 8 rooms are rented providing sleeping accommodations for three
 9 or more persons on a weekly, semimonthly, monthly, or
 10 permanent basis, whether or not meals or central kitchens
 11 are provided but without separated cooking facilities or
 12 kitchens within each room, and whose occupants do not need
 13 professional nursing or personal-care services provided by
 14 the facility.

15 ~~(6)(11)(8)~~ "Tourist home" means an establishment or
 16 premises where sleeping accommodations are furnished to
 17 transient guests for hire or rent on a daily or weekly
 18 rental basis in a private home when the accommodations are
 19 offered for hire or rent for the use of the traveling
 20 public.

21 ~~(7)(12)(9)~~ "Transient guest" means a guest for only a
 22 brief stay, such as the traveling public."

23 **Section 2.** Section 50-51-201, MCA, is amended to read:

24 "50-51-201. License required. (1) Each year, every
 25 person engaged in the business of conducting or operating a

1 hotel, motel, tourist home, ~~bed---and---breakfast~~,
 2 boardinghouse, retirement home, or roominghouse shall
 3 procure a license issued by the department.

4 (2) A separate license is required for each
 5 establishment; however, where more than one of each type of
 6 establishment is operated on the same premises and under the
 7 same management, only one license is required which shall
 8 enumerate on the certificate thereof the types of
 9 establishments licensed.

10 (3) Before a license may be issued by the department it
 11 must be validated by the local health officer, or if there
 12 is no local health officer the sanitarian, in the county
 13 where the establishment is located."

14 **Section 3.** Section 50-51-204, MCA, is amended to read:

15 "50-51-204. License fee -- late fee. (1) There shall be
 16 paid to the department with each application for such
 17 license or for renewal of such license an annual license fee
 18 of ~~\$30~~ \$50 ~~\$40~~ \$50 ~~\$40~~. The department shall deposit 85% of
 19 the fees collected ~~in-the-state-special-revenue-fund-to--the~~
 20 ~~credit-of~~ under this section into the local board inspection
 21 fund account created by in 50-2-108~~(2)~~ and-the-~~The balance,~~
 22 9% 11.25% OF THE FEES INTO THE GENERAL FUND, AND 6% 3.75% of
 23 the fees ~~must-be-deposited in INTO~~ the general-fund account
 24 provided for in [section 4].

25 (2) In addition to the license fee required under

1 subsection (1), the department shall collect a late fee from
2 any licensee who has failed to submit a license renewal fee
3 prior to the expiration of his current license and who
4 operates an establishment governed by this part in the next
5 licensing year. The late fee is \$25 and must be deposited in
6 the ~~state-general-fund~~ account provided for in [section 4]."

7 NEW SECTION. Section 4. Special revenue account. There
8 is an account in the state special revenue fund. Money in
9 the account is allocated to the department to be used to
10 administer the provisions of this chapter and the rules
11 adopted under it.

12 **Section 5.** Section 50-51-301, MCA, is amended to read:

13 "50-51-301. Health officers to investigate--and make
14 investigations and inspections. (1) The department,--through
15 its--employees-and-through-local, county, and district State
16 and local health officers, [, sanitarians-in-training,] and
17 registered sanitarians, or other authorized representatives,
18 shall make all-necessary investigations and inspections for
19 enforcement-of--this--chapter of establishments and make
20 reports to the department as required under rules adopted by
21 the department.

22 (2)--Each--local,--county,--or--district health officer,
23 sanitarian, or other authorized--representative--shall--make
24 regular--inspections--as--the--rules--of--the--department--may
25 direct-and-such-special-inspections-as--the--department--may

1 ~~from--time--to--time--direct, and he shall make such reports~~
2 ~~relative-to-conditions-existing-within-his-district-at--such~~
3 ~~times-and-in-such-manner-as-the-department-may-direct."~~

4 **Section 6.** Section 50-51-302, MCA, is amended to read:

5 "50-51-302. Health officers to have free access. All
6 persons-authorized-by-this-chapter-or-by-regulations-adopted
7 under--this--chapter shall--have State and local health
8 officers[, sanitarians-in-training,] and registered
9 sanitarians must be provided free access to establishments
10 at all reasonable hours to-any-of-the-establishments-listed
11 and--defined--in--50-51-102 for the purpose of making
12 conducting investigations and inspections as required under
13 this chapter."

14 **Section 7.** Section 50-51-303, MCA, is amended to read:

15 "50-51-303. Department to pay local board for
16 inspections and enforcement. (1) Before June 30 of each
17 year, the department shall pay to a local board of health,
18 as established under 50-2-104, 50-2-106, or 50-2-107, an
19 amount from the local board inspection fund ~~faceount~~
20 account created by in 50-2-108(2) which-is that must be used
21 only for the purpose of inspecting establishments licensed
22 under this chapter and enforcing the provisions of this
23 chapter; provided, however, that:

- 24 (a) there is a functioning local board of health; and
25 (b) the local board of health, local health officers,

1 [sanitarians-in-training,] and registered sanitarians:
 2 (i) assist in the inspections and enforcement of the
 3 provisions of this chapter and the rules adopted under it;
 4 and
 5 (ii) meet minimum program performance standards as
 6 established under rules adopted by the department.

7 (2) The funds received by the local board of health
 8 ~~shall pursuant to subsection (1) must~~ be deposited with the
 9 appropriate local fiscal authority and ~~shall-be-in-addition~~
 10 ~~to-the-funds-appropriated-under--50-2-106--through--50-2-114~~
 11 must be used to supplement, but not supplant, other funds
 12 received by the local board of health that in the absence of
 13 funding received under subsection (1) would be available for
 14 the same purpose.

15 (3) Funds in the local board inspection fund account
 16 not paid to the local board of health as provided in
 17 subsection (1) may be used by the department, within any
 18 jurisdiction that does not qualify to receive payments from
 19 the local board inspection fund account, to enforce the
 20 provisions of this chapter and the rules adopted under it."

21 **NEW SECTION. Section 8.** Civil penalties -- injunctions
 22 not barred. (1) An establishment that violates this chapter
 23 or rules adopted by the department pursuant to this chapter
 24 is subject to a civil penalty not to exceed \$500. ~~Each-day~~
 25 ~~of-violation-constitutes-a-separate-violation.~~

1 (2) Civil action to impose penalties, as provided under
 2 this section, does not bar injunctions to enforce compliance
 3 with this chapter or to enforce compliance with a rule
 4 adopted by the department pursuant to this chapter.

5 **NEW SECTION. Section 9.** Injunctions. The department or
 6 a local board of health may petition the district court to
 7 enjoin any action in violation of this chapter or of a rule
 8 adopted by the department pursuant to this chapter.

9 **NEW SECTION. Section 10.** Costs and expenses --
 10 recovery by department or county. In a civil action
 11 initiated by the department or county under this chapter,
 12 the court may, ~~IN-THE-CASE-OF-A-WILLFUL-VIOLATION-OF-THIS~~
 13 ~~CHAPTER,~~ by petition of the department or county, order an
 14 establishment that is found in violation of this chapter or
 15 rules adopted under this chapter to pay the costs of
 16 investigations and any other expenses incurred in enforcing
 17 the provisions of this chapter.

18 **NEW SECTION. Section 11.** Codification instruction.
 19 [Sections 4 and 8 through 10] are intended to be codified as
 20 an integral part of Title 50, chapter 51, and the provisions
 21 of Title 50, chapter 51, apply to [sections 4 and 8 through
 22 10].

23 **NEW SECTION. Section 12.** Coordination instruction. If
 24 House Bill No. 943 is passed and approved and if it includes
 25 a section defining a sanitarian-in-training, then the

HB 0987/04

1 bracketed language in [sections 5 through 7 of this act] is
2 effective.

-End-